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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,831	10/01/2001	Kar Yan Tam	016660-103	3978

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EXAMINER
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LANIER, BENJAMIN E

ART UNIT	PAPER NUMBER
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2132

MAIL DATE	DELIVERY MODE
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06/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/965,831

Applicant(s)

TAM ET AL.

Examiner

Benjamin E. Lanier

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): The 112 first paragraph rejections of claims 31-32.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_  
Claim(s) objected to: \_\_\_\_\_  
Claim(s) rejected: \_\_\_\_\_  
Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**


8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☒ Other: Interview Summary

  
Benjamin E. Lanier  
Examiner AU 2132

Continuation of 3. NOTE: a method for including an advertisement with audio data in a watermarked audio signal (claim 25); a method for including a trial listening section with audio data in a watermarked audio signal comprising, sectioning said signal into a first section having audio content and a trial listening section having audio content (claim 26); a method for including an advertisement section and a trial listening section with both section having audio data in a watermarked audio signal (claim 27) .

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's argument that paragraphs 50 and 51 of the published application (2003/0068043) provide suport for the "key is embedded across at least two sections" limitaiton, has been fully considered and is persuasive. The previous objection to the amendment filed 07 December 2006 is withdrawn along with the 112 first paragraph rejections of claims 31-32.

Applicant argues that Downs does not meet the limitaiton of "sectioning said watermarked audio signal into at least two sections each section having audio content" because "Downs cannot reasonably be interpreted to teach or suggest that (1) content as described by Downs is divided into at least two sections, and (2) the metadata or information added to the content during watermarking contains audio data." This argument is not persuasive because Downs discloses that the actual audio file contains a metadata section and a content section (Col. 23, lines 36-39). Therefore, Downs clearly shows audio content being "divided into at least two sections." Downs also discloses that music is packaged, along with other data, in a metadata SC (Col. 58, lines 1-12) that is included in the audio file (Col. 23, lines 36-39). Therefore, Downs discloses "the metadata or information added to the content during watermarking contains audio data."

Applicant's argues that "Metadata SC creation neither includes nor is included in a watermarking process." This argument is relevant to the claim limitations. The claim requires that the watermarked audio signal be sectioned off into at least two sections each having audio content. There are no claim requirements to use any of the audio signal sections in the watermarking process.